

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Ronald W. Cooper,

Petitioner,

v.

Warden, Pickaway Correctional Institution,

Respondent.

Case No. 2:23-cv-2223

Judge James L. Graham

Magistrate Judge Stephanie K. Bowman.

Order

This matter is before the Court on the Magistrate Judge's Report and Recommendation, which recommended that petitioner's habeas corpus petition brought under 28 U.S.C. § 2254 be dismissed with prejudice as time-barred under the applicable one-year statute of limitations. *See* 28 U.S.C. § 2244(d)(1)(A). Petitioner has filed an objection to the Report and Recommendation, arguing he has "newly-discovered" evidence that the state court indictment was flawed and that the statute of limitations should be tolled. Other than stating that he received the evidence in late 2021, petitioner does not otherwise provide any further information about the nature of the evidence.

Upon *de novo* review of the matter, the Court find that the objection fails to raise any meritorious argument. The Report and Recommendation correctly addressed petitioner's claims. Petitioner filed his petition for a writ of habeas corpus in July 2023. As the Magistrate Judge explained, the statute of limitations began to run on September 10, 2020, one day after the expiration of the direct appeal period. Petitioner's grounds for habeas relief, as alleged in the petition, were known or discoverable before the conclusion of his guilty-plea proceedings. He has not demonstrated in his objection how the purported new evidence would alter this conclusion. And by his own admission he had the evidence in his possession for no less than 18 months before he filed his habeas petition.

Accordingly, the Court **OVERRULES** the Objection (doc. 14), and **ADOPTS** the Report and Recommendation (Doc. 9). Respondent's motion to dismiss (Doc. 8) is **GRANTED** and Petitioner's petition is **DISMISSED** with prejudice.

The Court certifies pursuant to 28 U.S.C. §1915(a)(3) that an appeal of this order would not be taken in good faith for the reasons stated in the Report and Recommendation. Therefore, the

Court declines to issue a certificate of appealability and denies petitioner leave to proceed on appeal *in forma pauperis*. See Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

Pursuant to Fed. R. Civ. P. 58, the Clerk shall enter judgment to this effect.

s/ James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: September 25, 2024